

Kevin T. Fitzgerald
kevin@impc-law.com

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

JOHN MADSEN, STEPHAN LAKE)
ADVENTURES, LLC, and)
STEPHAN LAKE)
HOLDINGS, LLC)

Plaintiffs,)

v.)

RUSSELL LEE JACOBY, LAURA MAE)
JACOBY, KAYLEE LAMAE JACOBY)
JACOB LEE JACOBY, SHAWN)
DAMIEN MORRISON, and DANA)
MICHELLE MORRISON,)

Defendants.)

Case No. 3AN-21-_____CI

COMPLAINT

COMES NOW Plaintiffs, John Madsen, Stephan Lake Holdings, LLC, and Stephan Lake Adventures, LLC, for their complaint against Defendants, Russell Lee Jacoby, Laura Mae Jacoby, KayLee LeMae Jacoby, Jacob Lee Jacoby, Shawn Damien Morrison and Dana Michelle Morrison, states and alleges as follows:

I. JURISDICTION

1. Plaintiff, Stephan Lake Adventures, LLC ("SLA"), is, and at all relevant times was, an Alaskan limited liability company located in Anchorage, Alaska.

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2. Plaintiff, Stephan Lake Holdings, LLC ("SLH"), is a Virginia limited liability company licensed and authorized to transact business in Alaska.

3. Plaintiff, John Madsen is a resident of Alaska. He is also the sole member and manager of SLA and SLH.

4. Based upon information and belief Defendants are residents of Arizona.

5. The real and personal properties at issue in this suit are located in Alaska.

6. The business, real and personal property, and transactions contemplated by the agreements at issue in this action are and were to be performed in the Third Judicial District of Alaska.

7. This court has jurisdiction and venue is appropriate.

II. FACTUAL BACKGROUND

8. On or about October 9, 2020, Defendants entered into an Agreement for Purchase, Sale and Assignment of Membership Interests (hereinafter "Agreement") with Plaintiffs. The Agreement was for the purchase of Madsen's respective membership interests of SLA and SLH by Defendants.

9. SLA is a guided hunt/fishing outfitting company that hosts and administers large game hunts and fishing expeditions

**INGALDSON
FITZGERALD,
P.C.**
Lawyers
813 W. 3rd Avenue
Anchorage,
Alaska
99501-2001
(907) 258-8750
FAX: (907) 258-
8751

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at Stephan Lake Lodge, a hunting lodge located in Talkeetna, Alaska.

10. SLH is a holding company that owns real and personal property known collectively as Stephan Lake Lodge, and specifically, the following real property: PARCEL 1 (Lodge Parcel), Lot one (1), U.S. Survey No. 4911, situated on the West Shore of Stephen Lake, in Talkeetna, Alaska, the Halfway Cabin located in Talkeetna, Alaska, the Grizzly Cabin (under State lease) located near Talkeetna, Alaska, and the Susitna Cabin (under lease with Knikatu, Inc. an Alaska native village corporation) located near Talkeetna, Alaska.

11. The aggregate purchase price of the Membership interests was \$1,500,000 with an Initial non-refundable Deposit of \$100,000.00. See Exhibit 1, October 9, 2020 Agreement for Purchase, Sale and Assignment of Membership Interests (without Exhibits), or the "Agreement".

12. On or about November 10, 2020, at Settlement contemplated by the Agreement, the Defendants executed a Promissory Note to secure the remaining \$1,400,000 purchase price. The Promissory Note also provides default and acceleration clauses. These provisions allow late charges and upon written notice of default and failure to timely cure,

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acceleration of the entire principal balance of the Note. See Exhibit 2 ("Note").

13. Included in the Agreement is Section 2 addressing the purchase price. Section 2.1(d) provides in pertinent part, as follows:

Deed of Trust Curtailment. Buyers acknowledge that the real property and improvements owned by SLH are encumbered by a Deed of Trust in favor of Geoffrey Rubin in the original principal amount of \$600,000.00 (with a \$540,000.00 balance due as of the date of execution of this Agreement), and further, that the Deed of Trust and associated promissory note requires annual payments of \$60,000.00 each due December 1, 2020 and each December 1 thereafter until paid in full. Buyers shall pay, in addition to the Initial Deposit and payments due under the Note, \$60,000.00 on December 1, 2020, December 1, 2021, December 1, 2022, December 1, 2023 and December 1, 2024 to be applied towards curtailment of the Rubin Deed of Trust, with the balance due on the Deed of Trust to be paid in full concurrent with and from payment by Buyers of the balloon payment due under the Note.

14. Section 2.1(f) of the Agreement further provides that the Defendants make periodic payments to Madsen of \$150,000.00 on January 1, 2022 and January 1, 2023.

15. Total payments due Madsen and for Madsen's benefit under the Agreement is \$1,400,000.00 plus interest per the Note, less credits for the periodic \$60,000.00 payments due Rubin and \$300,000.00 payments due Madsen pursuant to Sections 2.1(d) and 2.1(f).

16. Without justification or excuse, Defendants have failed to make the \$60,000 payment required on December 1, 2020.

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17. On or about December 22, 2020, Robert Cunningham, Esq., on behalf of Plaintiffs, sent a Notice of Default to Defendants demanding they tender payment in the amount of \$1,405,503.00, representing the accelerated amount due under the Agreement and Notice. See Exhibit 3.

18. As of the date of this filing, Defendants have refused or failed to tender payment of either the \$60,000 due on December 1, 2020, or the \$1,405,503.00 despite demand and have expressly repudiated their obligations under the Agreement and Note

**III. COUNT I
(Breach of Contract)**

19. Plaintiff incorporates the allegations in paragraphs 1 through 10 as if fully set forth herein.

20. The parties, for valuable consideration, entered into a valid and enforceable contract.

21. Defendants' failure to fulfill contract terms constitutes a material breach of the contract.

22. Defendants' breach of the contract has caused Plaintiffs' harm.

23. Defendants are liable to Plaintiffs for at least the \$60,000.00, the entire accelerated amount under the Note as well as other costs and legal fees.

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IV. COUNT II
(Breach of the Covenant of Good Faith and Fair Dealing)

24. Plaintiffs re-incorporates the prior allegations of fact and law contained in this Complaint.

25. Like all contracts in Alaska, the Agreement includes an implied covenant of good faith and fair dealing.

26. This means that each party promises not to do anything to wrongfully destroy or injure the right of the other party to receive the benefits of the contract.

27. Defendants deprived Plaintiffs of the benefits of the Agreement intentionally or in a manner that a reasonable person would regard as unfair.

28. Defendants' actions caused Plaintiffs to suffer damages.

29. Defendants have damaged Plaintiffs in the amount of \$60,000.00. the entire accelerated amount under the Note, and other costs and legal fees.

WHEREFORE, plaintiff prays for the following relief:

1. For a judgment against the Defendant and in Plaintiff's favor in an amount greater than \$100,000, the exact amount to be proven at trial;

2. For an award of reasonable attorney's fees and actual costs;

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3. For such other and further relief as the court deems just and equitable.

Dated this 5th day of February, 2021.

INGALDSON FITZGERALD, P.C.
Attorneys for Plaintiffs

/s/ Kevin T. Fitzgerald
Kevin T. Fitzgerald
ABA No. 8711085

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P.C.**
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